

IN THE SENATE OF THE UNITED STATES.

APRIL 17, 1860—Ordered to be printed.

Mr. WILKINSON submitted the following

REPORT.

The Committee on Claims, to whom was referred the petition of A. B. Thompson, and sundry other American citizens in California, praying relief from Congress, report :

The petitioners insist that they have just claims against the government of the United States for arms, horses, mules, saddles, bridles, spurs, cattle, blankets, beds, and bedding, &c., which were either purchased under a promise of payment by the United States officers, or taken by force, for the use of the American forces who were engaged in the conquest of California, from July, 1846, to March, 1847, as well as for other property taken or distrained by the said United States forces.

Blas. P. Alviro, one of the petitioners, heretofore filed his separate petition in the Court of Claims, where, after a full investigation of the merits of the petition, the court decided that the petitioner had no legal claim against the United States.

The ground upon which the court rests its decision is, that Frémont and his men, when they took the property, were *not* acting as members of the army or navy of the United States, but upon their own individual responsibility.

But it is claimed that the government has heretofore recognized these claims as legal by the action of Congress.

The army appropriation bill of the 31st of August, 1852, contains the following provision: "That for the pay and equipment as mounted riflemen, finding their own horses and forage, of the volunteers serving under the command of Captain John C. Frémont in California, during the year 1846, as appears by the muster-rolls on file in the War Department, and for the subsistence and supplies consumed by said volunteers in said service, \$168,000 is hereby appropriated out of any money in the treasury not otherwise appropriated; and the Secretary of War is authorized and empowered to appoint three competent and disinterested officers of the army to examine and report to Congress upon all such claims as may be presented for funds advanced and subsistence and supplies of all kinds furnished or taken for the use of said command while thus engaged in the public service; and for the expenses of said board of officers the sum of \$2,000 is hereby appro-

priated." (10 Stat. at Large, p. 108.) By virtue of that provision, the Secretary of War, in September, 1852, appointed a board of officers in pursuance of the law. The board was organized in Washington city in said month of September, and its sittings were continued until the board was abolished by act of Congress of the 3d of March, 1855. (10 Stat. at Large, p. 638.)

From the final report of this board, it does not appear that the petitioners (with a very few exceptions) ever filed their claims with the said board, nor is there any excuse given or reason urged why they did not avail themselves of the benefits of the act above referred to, when their claims would have received a full and fair adjudication and settlement.

Your committee, acting upon the decision of the Court of Claims that there is no legal claim against the government in these cases, can see no good reason for the establishment of a new tribunal or board for the adjudication and settlement of these claims, and particularly as there is no excuse urged by the claimants for their not having presented their claims to the board organized in 1852 to hear and determine them.

Your committee therefore report adversely to the prayer of the petitioners, and ask leave to be discharged from the further consideration of this subject.